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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,782	10/03/2003	Richard R. Roesler	PO-7926/MD-99-44	3887
157	7590	08/25/2004	EXAMINER	
BAYER MATERIAL SCIENCE LLC			TRUONG, DUC	
100 BAYER ROAD			ART UNIT	
PITTSBURGH, PA 15205			PAPER NUMBER	
			1711	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/678,782		ROESLER ET AL.	
	Examiner		Art Unit	
	Duc Truong		1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>0820</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wicks'012 or Zwiennner'741 or '170 of record on 1449 or Chem Abstract 98: 198688.

Wicks discloses a polyurea coating comprising at least one compound of the formula (I) by reacting primary amines of the formula (II) with maleic or fumaric acid esters of the formula (III) (see col. 4, line 50 et seq.; col. 5, lines 7-47) under cited conditions (see col. 5, lines 48-58).

The reference further discloses the coating composition comprising a polyisocyanate and said compound (see Abstract, col. 1, line 65 et seq.), as stated above, to form a binder (see col. 6, line 23 et seq.), polyurethane and polyurea coatings—(see col. 6, line 65 et seq.).

Zwiennner'741 or '170 discloses an isocyanate reactive component containing at least one compound of the formula (I) by reacting primary amines (II) with maleic or fumaric acid esters of the formula (III) (see col. 4, line 38 et seq. of '741; col. 4, line 31 et seq. of '170) under cited conditions (see col. 5, lines 4-20 of '741; col. 4, line 64 et seq. of '170).

The references further disclose a process for the production of polyurethane coatings, binders (see col. 6, line 1 of '741; col. 5, line 60 of '170) using said component.

The disclosures of the references differs from the instant claims in that they do not disclose the claimed formula derived from the reaction products of primary amines with maleic or fumaric acid esters then with an oxirane compound comprising alkylene oxide.

However, the references do disclose the reaction products of primary polyamines with maleic or fumaric acid esters under the same conditions. Further, the references do disclose the use of polyether polyols by the alkoxylation of starting materials, and suitable for the preparation of the isocyanate group containing prepolymers and semi-prepolymers, comprising alkylene oxide such as ethylene and/or propylene oxide which may be introduced into the alkoxylation in any sequence or as a mixture (see Wicks, col. 4, lines 28-41; col. 3, line 60 onto col. 4, line 4 of '741; col. 3, lines 53-65 of '170).

Therefore, it would have been obvious to one of ordinary skill in the art to react the reaction product of primary polyamines with maleic or fumaric acid esters then with alkylene oxide to form the claimed aspartate of the claimed formula since the references clearly disclose that the alkylene oxide can be added in any sequence, in the absence of a showing of unexpected results derived from said selection.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chem Abstract 98: 198688.

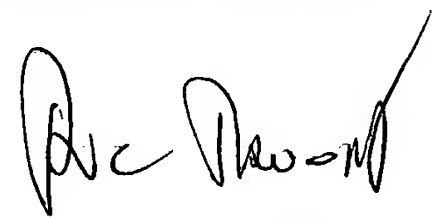
The reference discloses derivative of N-(p-aminobenzoyl)-L-aspartic acid under the claimed conditions to form the same or similar products.

However, the reference does not disclose the general claimed formula. However, it does disclose specific formula which is included in the broad formula. Therefore, it would have been obvious to one of ordinary skill in the art to select reactants under conditions to form the product of the claimed formula since they have been shown to be effective in a similar system and thus would have been expected to provide adequate results. There is no showing of unexpected results derived from said use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Truong whose telephone number is 571-272-1081. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DUCTRUONG
PRIMARY EXAMINER